

Sponsored by: Dickason & Blair
Public Hearing Date: December 14, 2021
Enactment Date: December 14, 2021

**CITY OF WHITTIER
ORDINANCE 006 -2021**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER,
ALASKA, AMENDING PORTIONS OF WHITTIER MUNICIPAL CODE
CHAPTER 2.70 PERSONNEL ADMINISTRATION**

WHEREAS, the City of Whittier's Personnel Code is reflected in Chapter 2.70 of the Whittier Municipal Code and was most recently significantly amended in 2008 via Ordinance 537-08; and

WHEREAS, the City Council has held multiple work sessions and Council meetings aimed at adopting changes to the Personnel Handbook over the past three years; and

WHEREAS, the City Council requested a review and rewrite of the City's Personnel Handbook, and the proposed changes require corresponding amendments to the Whittier Municipal Code to remain consistent with more recent changes in the law, as well as changes requested by members of Council; and

WHEREAS, the proposed Personnel Code changes are as follows: 1) replacement of grievance committee to hear employee complaints, with a hearing officer from the State of Alaska Office of Administrative Hearings and renaming the "grievance committee" to "personnel committee"; 2) clarifies that overtime is not paid to exempt employees (some non-department head positions are 'exempt'); 3) updating overtime rules to correspond with Fair Labor Standards Act (FLSA) Section 7(k) with respect to public safety exceptions to overtime; 4) changes effective date of pay changes to the start of the next pay period; 5) exempting from PERS participation, any position expressly removed from PERS by resolution of the City Council; 6) removal of the requirement that employees retire at age 65, on the basis of age discrimination; 7) removal of language specifying the City's participation in a particular health insurance plan to allow added flexibility and in recognition the City no longer participates in the State of Alaska's health plan; 8) combining Annual Leave and Sick Leave to reduce administrative burden; 9) increasing the amount of annual leave an employee is entitled to carry on the books from 240 to 600 hours; and 10) requiring that annual leave cash-outs be only at the employee's regular rate of pay.

**CITY OF WHITTIER
ORDINANCE 006-2021**

NOW THEREFORE, THE WHITTIER CITY COUNCIL HEREBY ORDAINS that:

Section 1. Whittier Municipal Code Chapter 2.70 Article III, Grievance Committee is hereby amended, as follows:

(~~Strikethroughs~~ = deletions and are **bold**, Underline = additions and are **bold italics**):

Article III. Personnel Grievance Committee

2.70.050 Establishment.

A seven-member board is established. [Ord. 537-08 § 2, 2008].

2.70.055 Membership.

The ~~personnel grievance~~ committee shall be composed of the City Council. [Ord. 537-08 § 2, 2008].

2.70.060 Duties.

The duties of the ~~personnel grievance~~ committee shall be:

A. To submit proposed personnel regulations to the City Council; and

~~B. To consider and decide any Step 4 grievancees.~~

All members of the committee shall declare any conflict of interest and refrain from participating in board actions when a conflict exists. [Ord. 537-08 § 2, 2008].

~~2.70.070 Vacancies.~~

~~A vacancy occurring on the grievance committee shall be filled by temporary appointment by the Mayor. [Ord. 537-08 § 2, 2008].~~

Section 2. Whittier Municipal Code Chapter 2.70.080(D) City Council – Responsibility and authority, is hereby deleted, as follows:

2.70.080 City Council – Responsibility and authority.

The City Council shall be responsible for performing the following functions of the personnel administration process:

**CITY OF WHITTIER
ORDINANCE 006-2021**

- A. Approval of the City's budget, including requests for personnel management funds;
- B. Approval of personnel policies and procedures developed by the City Manager;
- C. Appointment of the City Manager; and
- ~~D. Confirmation of mayoral appointments to the grievance committee. [Ord. 537-08 § 2, 2008].~~

Section 3. Whittier Municipal Code Chapter 2.70.225, Overtime, is amended as follows:

2.70.225 Merit and probationary increases.

Overtime payment will be received by all employees except for ~~exempt employees-department directors~~, who are not eligible for overtime payment in any circumstances. Overtime must be approved in writing by the department director concerned prior to its performance, except in cases of emergency which preclude such prior arrangements and shall be paid to employees who are eligible for overtime payment under this section in accordance with methods established by State laws. The person in charge of providing emergency service shall see that overtime hours related to the service are properly recorded. The department director shall review the record and certify to the Finance Officer any overtime approved for payment as soon as possible after the performance of the emergency service necessitating the overtime. [Ord. 537-08 § 2, 2008].

Section 4. Whittier Municipal Code Chapter 2.70.235, Overtime, is amended as follows:

2.70.235 Overtime pay.

An employee legally entitled to overtime pay under applicable Federal or State law shall be paid at the rate of time and one-half of his/her rate of pay for all hours worked over 40 per week and/or eight hours per day, as required by applicable State law or regulation, or on a recognized City holiday in addition to holiday pay. [Ord. 553-09 § 2, 2009; Ord. 537-08 § 2, 2008]. *FLSA Section 7(k) provides that employees engaged in law enforcement may be paid overtime on a "work period" basis. For Police Officers, overtime shall be paid for any time worked in excess of 12-hours per workday or 86-hours in a 14-day work period. For EMS staff, overtime shall be paid for any time worked in excess of 10-hours per workday or 80-hours in a 14-day work period.*

**CITY OF WHITTIER
ORDINANCE 006-2021**

Section 5. Whittier Municipal Code Chapter 2.70.265, Merit and probationary increases, is amended as follows:

2.70.265 Merit and probationary increases.

A. Merit salary increases shall be effective ~~the day~~ following approval by the City Manager, on the beginning date of the pay period following the date of the change.

B. Probationary salary increases shall be effective the earlier of the first day of the pay period following ~~day following~~ completion of three months service as a new-hire probationary employee or promotional probationary employee or the first day of the pay period following ~~day following~~ satisfactory completion of probation. A probationary salary increase shall be one step in the same grade. [Ord. 537-08 § 2, 2008].

Section 6. Whittier Municipal Code Chapter 2.70.270, Reassignments and reinstatements – Effective date, is amended as follows:

2.70.270 Reassignments and reinstatements – Effective date.

The effective date of personnel actions implementing approved promotions, reassignments and reinstatements shall be the first day of the pay period following the new approved status. [Ord. 537-08 § 2, 2008].

Section 7. Whittier Municipal Code Chapter 2.70.280, State retirement system participation, is hereby amended as follows:

2.70.280 State retirement system participation.

The City became a participant of the State of Alaska Public Employees Retirement System effective July 1, 1984. Coverage is mandatory for all full-time permanent employees and probationary employees in full-time positions as well as permanent part-time employees, except those positions specifically excluded from participation in PERS as expressly approved by Resolution of the City Council. [Ord. 537-08 § 2, 2008].

Section 8. Whittier Municipal Code Chapter 2.70.285, Age 65 – Continued employment, is deleted in its entirety, as follows:

~~2.70.285 Age 65 – Continued employment.~~

~~An employee who attains the age of 65 may be retained in the City service upon written certification of his department director or the personnel officer that such action is in the best interest of the City and deferral of the retirement is authorized by the City Council. The City Manager may require the employee to submit a satisfactory report of medical examination by a physician approved or designated by the City Manager, which shows the~~

CITY OF WHITTIER
ORDINANCE 006-2021

~~employee to be physically and mentally able to perform the duties of his position. An initial deferral of retirement shall be for a period of one year, and subject to renewal in the above manner. [Ord. 537-08 § 2, 2008].~~

Section 9. Whittier Municipal Code Chapter 2.70.290 Group health insurance, is hereby amended as follows:

The City provides health and life insurance to each of its permanent full-time and part-time employees ~~under the State of Alaska Group Health Care and Life Insurance Plan~~. The employee may insure their immediate family under the plan for an additional premium payable by the employee. [Ord. 537-08 § 2, 2008].

Section 10. Whittier Municipal Code Chapter 2.70.495(D), Steps – Step 4, is amended as follows:

D. Step 4. If not satisfied with the City Manager's decision, an employee may request a hearing before a hearing officer from the State of Alaska Office of Administrative Hearings, under AS 44.64.030(b), ~~the grievance committee~~.

~~1. The grievance committee shall conduct the hearing expeditiously and in a manner conducive to obtaining a clear understanding of the facts. The procedure shall be informal. Technical rules regarding evidence and witnesses shall not apply.~~

~~2. The grievance committee shall submit a written report of its findings and determinations to all interested parties within 10 working days after hearing testimony.~~

3. The decision of the Administrative Hearing Officer ~~grievance committee~~ is the final step within the administrative process of the City.

Section 11. Whittier Municipal Code Chapter 2.70.540, Annual Leave – Accrual Rate, is amended as follows:

Leave shall accrue at the rate of:

| | |
|------------|---|
| 0-2 years | <u>16</u> 12 hours per month |
| 2-5 years | <u>18</u> 14 hours per month |
| 5-10 years | <u>20</u> 16 hours per month |

**CITY OF WHITTIER
ORDINANCE 006-2021**

10 or more years ~~22~~ 18 hours per month

~~Sick leave shall be included in the benefit package at the rate of four hours per month.
[Ord. 537-08 § 2, 2008].~~

Section 12. Whittier Municipal Code Chapter 2.70.565 – Accrual – Maximum accumulation, is amended as follows:

2.70.565 Accrual – Maximum accumulation.

The maximum number of hours of annual leave that may be carried over after December 31st of each year is ~~600~~ 240 hours. [Ord. 537-08 § 2, 2008].

Section 13. Whittier Municipal Code Chapter 2.70.600 – Terminal leave, is amended as follows:

2.70.600 Terminal leave.

Employees terminated shall be paid for their accrued earned annual leave. Accrued annual leave shall not be granted nor paid to an employee upon separation during initial probation. Accrued leave shall be paid in a lump sum. The salary or hourly rate used in computing a cash payment shall be at the employee's regular rate of pay that rate being received by the employee on the date of application for cash payment or the date that a resignation/separation notice is signed by the employee. [Ord. 537-08 § 2, 2008].

Section 14. Whittier Municipal Code Chapter 2.70.680, Dismissal for disciplinary reasons, is amended as follows:

2.70.680 Dismissal for disciplinary reasons.

A department director may dismiss an employee for any just cause, including but not limited to theft of property, inefficiency, insubordination, habitual tardiness, unexcused absences and use of or influence from intoxicating beverages or drugs while on duty. Dismissal action shall be reported immediately to the City Manager by personal consultation. A personnel evaluation report shall be submitted as soon as possible, setting forth the circumstances of the case. Any nonexempt employee shall be given the opportunity to participate in a pre-termination hearing. Any exempt employee shall be given the opportunity to participate in a post-termination "name clearing" hearing before a hearing officer from the State of Alaska Office of Administrative Hearings ~~the grievance committee~~ or in public at the choice of the terminated exempt employee. [Ord. 537-08 § 2, 2008].

**CITY OF WHITTIER
ORDINANCE 006-2021**

Section 15: This Ordinance shall take effect immediately upon its adoption.

ENACTED BY THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA, this the
day of December, 2021.



Dave Dickason
Mayor

AYES: Blair, Wagner, Shen, Denmark, McCord, Pinqouch, Dickason
NAYS: NONE
ABSENT:
ABSTAIN:

ATTEST:



Jackie Wilde
Assistant City Manager/Acting City Clerk

